

Remarks

Claims 1-19 are pending in the present application, of which claims 1-3 and 5-19 have been rejected and claim 4 has been objected to. By this paper, Applicant amends claims 1, 4, 11, 13 and 18 and adds new claims 20-23. Applicant respectfully traverses the Examiner's rejection of claims; however, Applicant has amended some claims to facilitate allowance of the present application.

Claim Objections

The Examiner has objected to claim 18 because "the massager" lacks antecedent basis. Claim 18 has been amended by this paper to refer to "the massage unit" instead "the massager." Accordingly, claim 18 has been corrected to overcome this objection.

Claim Rejections - 35 U.S.C. § 102

Rejection of Claims 1-3, 8, 10-11 Over Japan Reference 7-28549

The Examiner has rejected claims 1-3, 8 and 10-11 under 35 U.S.C. § 102(b) as being anticipated by Japan reference 7-28549. Claim 1 has been amended by this paper to further define the massage unit as having a motorized eccentric drive. The Japan reference 7-28549 does not have a motorized eccentric drive massage unit and therefore claim 1 is not anticipated by this reference.

Claims 3, 8 and 10-11 depend from claim 1 and therefore are not anticipated by the Japan reference 7-28549 for at least the reasons stated above with reference to claim 1.

Additionally, claim 11 has been amended such that "the second grip portion of each handle is not parallel with the corresponding first grip portion." In contrast, the first and

second grip portions of the Japan reference 7-28549 are parallel and therefore claim 11 is not anticipated thereby.

Rejection of Claims 13-17 Over Clarke (2,168,975)

The Examiner has rejected claims 13-17 under 35 U.S.C. § 102(b) as being anticipated by Clarke (2,168,975). Claim 13 has been amended by this paper to require “a massage unit having a motorized eccentric drive.” Clarke fails to teach or disclose this limitation and therefore claim 13 is not anticipated by Clarke.

Claims 14-17 depend from claim 13 and therefore are not anticipated by Clarke for at least the reasons stated above with reference to claim 13.

Claim 15 requires “wherein the handle of each arm extends upwardly out of the central plane to enable the user to urge the massage region towards the user’s lower back with minimal wrist flexing.” In contrast, the handle of Clarke does not extend out of the central plane and therefore claim 15 is not anticipated by Clarke.

Claim 16 further requires “wherein each handle is generally orthogonal to the central plane.” In contrast, each handle of Clarke is generally parallel or coplanar with the central plane. Therefore, claim 16 is not anticipated thereby.

Claim Rejections - 35 U.S.C. § 103

The Examiner has rejected claims 1-3 and 5-19 under 35 U.S.C. § 103(a) as being unpatentable over Naruse et al. (6,332,873) in view of Matsuura (JP 5-345006).

Claims 1 and 13 have been amended by this paper to require “a massage unit having a motorized eccentric drive...for driving a massage formation extending from the housing for reciprocation relative to the housing.” Naruse et al. and Matsuura alone and in

combination fail to teach or suggest this limitation. Since the combination of references fails to teach or suggest all of the claim limitations in the amended claims 1 and 13, claims 1 and 13 are nonobvious over Naruse et al. in view of Matsuura.

Additionally, there is no motivation in Naruse et al. or Matsuura to combine these references. Specifically, neither of these references address the problems with conventional two arm massagers, which require the user to apply “a constant application of force to maintain the manipulation against the free orientation of the arms of the massager.” Applicant’s specification at page 5, lines 7-13. Additionally, the combination of references fails to appreciate the difficulty in single arm massagers that provide a moment arm along the massager as discussed in Applicant’s specification at page 1, lines 18-23. Thus, improper hindsight has been utilized for combining these references.

Claims 2, 3 and 5-12 depend from claim 1 and therefore are nonobvious over Naruse et al. in view of Matsuura for at least the reasons stated above with reference to claim 1.

Additionally, claim 5 requires “a clutch for maintaining an orientation of the arm relative to the housing.” Naruse et al. lacks a clutch, which was admitted by the Examiner. The Examiner states that Matsuura teaches “a clutch or locking mechanism.” Applicant respectfully asserts that Matsuura does not teach a clutch. A clutch applies a frictional force, which must be overcome in order to rotate a member. In contrast, Matsuura teaches a locking mechanism only. In the locked position of Matsuura, “the turning of the treatment part 2 with regard to the grip part 1 (bending) becomes impossible.” Matsuura at paragraph 8. Unlike a clutch, the locking mechanism of Matsuura is not overcome by applying a force that overcomes a frictional force. In contrast, “the lock cannot be released unless they [balls 13] are pushed back.” Matsuura at paragraph 12. Since Naruse et al. and Matsuura fail to teach or suggest a clutch, claim 5 is nonobvious over the combination of references.

Claim 9 requires “the first grip portion of each handle is generally orthogonal to the corresponding second grip portion.” This limitation is not taught nor disclosed in Naruse et al. alone or in combination with Matsuura. The Examiner refers to Figure 4c of Naruse et al., however the grip portions 3 and 4 of Naruse et al. lie in a common arc and are not orthogonal.

Regarding claim 12, the claim requires “the first grip portion of each handle is...generally orthogonal to the corresponding second grip portion, so that...the user may grasp the second grip portion of each handle to *push* the massage region against a surface of the user’s body.” Naruse et al. and Matsuura alone and in combination fail to teach or suggest this limitation. Specifically, the handles of Naruse et al. permit a user to pull the massage region against the surface of the user’s body, however do not permit the user to push the massage region against the surface of the user’s body. Figure 5 of Naruse et al. illustrates the user pulling the massager. Likewise, Figure 6 of Applicant’s application illustrates the user pulling the massager towards the user’s body. However, Figure 7 illustrates an example wherein the user pushes the massager against the body.

Claims 14-19 depend from claim 13 and therefore are nonobvious for at least the reasons stated above with reference to claim 13.

Additionally, claim 15 requires “the handle of each arm extends upwardly out of the central plane.” In contrast, the handles of Naruse et al. lie in a common plane with the U-shaped housing.

Claim 16 requires “each handle is generally orthogonal to the central plane.” However, the handles of Naruse et al. lie in the central plane.

Allowable Subject Matter

Applicant appreciates the Examiner's indication that claim 4 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, claim 4 is rewritten as suggested by the Examiner in independent form including all of the limitations of base claim 1. Therefore, claim 4 is allowable as indicated by the Examiner.

Conclusion

In view of the foregoing, Applicant respectfully asserts that the application is in condition for allowance, which allowance is hereby respectfully requested.

Respectfully submitted,

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